

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BENJAMIN J. GONZALEZ,

Plaintiff,

v.

No. CIV 14-0612 MCA/SMV

STATE OF NEW MEXICO, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff's Motion for/to: Obtain a Writ of Coram Nobis (Doc. 20) filed on March 30, 2015. By order entered on February 17, 2015 (Doc. 17), the Court dismissed this civil rights action. In his motion, Plaintiff notes that the dismissal of his claims for release from custody was without prejudice to his rights under the habeas corpus statutes. In support of his request for a writ of coram nobis, he incorporates the allegations from his complaint and asserts that he is innocent of the state criminal charges for which he has served two years in prison. He also alleges that the prosecutor coerced certain evidence and witnesses perjured themselves.

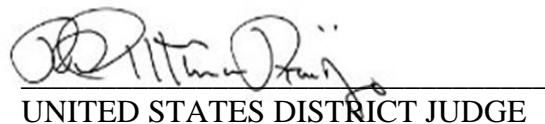
As a starting point, the Court notes that the heading of the motion names a New Mexico district court, rather than this Court. The caption includes the case numbers of both this action and a state court criminal proceeding. The Court addresses Plaintiff's motion, assuming for purposes of this order only that Plaintiff intended to file his motion in this Court and not in his state court criminal case.

The Court will dismiss the coram nobis motion for lack of jurisdiction. Simply stated, "It has long been settled in this circuit that federal courts have no jurisdiction to issue writs of *coram*

nobis with respect to state criminal judgments.” *Davis v. Roberts*, 425 F.3d 830, 836 (10th Cir. 2005) (citations omitted). In the absence of jurisdiction, the Court may not address Plaintiff’s allegations. *See United States v. Nelson*, 465 F.3d 1145, 1147 (10th Cir. 2006); *United States v. Harper*, 545 F.3d 1230, 1232 (10th Cir. 2008).

Last, attached to the motion is a request for status of an appeal that Plaintiff allegedly filed on February 5, 2015. The Clerk will be directed to send Plaintiff a copy of the docket sheet in this action.

IT IS THEREFORE ORDERED that Plaintiff’s Motion for/to: Obtain a Writ of Coram Nobis (Doc. 20) filed on March 30, 2015, is DISMISSED for lack of jurisdiction; and the Clerk is directed to send Plaintiff a copy of the docket sheet in this action.



UNITED STATES DISTRICT JUDGE